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10/722,662	11/26/2003	Keith Goclowski	02-065-KG	5143

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LAMBERT & ASSOCIATES
SUITE 200
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BOSTON, MA 02109

EXAMINER

MISIASZEK, MICHAEL

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3625

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/722,662
Filing Date: November 26, 2003
Appellant(s): GOCLOWSKI, KEITH

Adam J. Bruno
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 8/18/2008 appealing from the Office action mailed 9/26/2007.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

Art Unit: 3625

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

5,774,873	Berent et al.	6-1998
6,449,601	Friedland et al.	9-2002
2002/0046148	Alaia et al.	4-2002

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Berent et al. in view of Friedland et al., and further in view of Alaia et al.

(10) Response to Argument

Appellant's arguments with respect to the teachings of the Alaia reference have been fully considered, but they are not persuasive. Initially, appellant asserts that Alaia discloses an extension feature, thus rendering it "inapplicable as prior art." However, the Examiner notes that the auction timer feature claimed also serves as an auction extension feature. That is, if a higher bid is submitted in a claimed auction, the auction timer is reset, thus extending the total time of the auction. Accordingly, appellant's argument to this point is not valid.

Appellant further asserts that Alaia simply does not disclose the claimed auction timer feature. However, as disclosed in at least paragraph [0040] and figures 6A-6D, Alaia discloses (as claimed in claim 1) an auction timer that controls the time left in an auction and is read out to display the time remaining in the auction (see figures: "CLOSING TIME"). If a new "best bid" (equivalent to claimed higher bid) is received within a certain interval from the closing time, the closing time is automatically reset for a time one minute later, for example. Such resetting behavior is equivalent to the features recited in claim 3. Accordingly, Alaia does indeed disclose the claimed auction timer.

With regard to appellant's arguments that the claimed invention allows bids to be received that will reset the auction timer at any point in the auction, as opposed to the interval disclosed by Alaia, the Examiner notes that such features were not claimed, and the scope of the claims does not require such features.

Art Unit: 3625

Appellant also asserts that there is no teaching, suggestion, or motivation to combine the prior art references. However, the Examiner notes that all three of the prior art references are in the same specific field of endeavor as the present application, remote electronic auctions. Accordingly, the cited prior art references are considered to be analogous art. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the system, as taught by Berent, with the features taught by Friedland and Alaia, since such a modification would have only united elements of the prior art references, with no change in their respective functions and which yield predictable results.

Art Unit: 3625

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

Art Unit: 3625

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Jeffrey A. Smith/

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